



October 10, 2008

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Subject: Comments on September 12 Federal Register: Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies

Dear Mr. Prather:

Thank you for the opportunity to comment on the proposed revisions for the Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies as required by the Water Resources Development Act of 2007 (Public Law 110-114).

The Conservancy is a strategic partner to the U.S. Army Corps of Engineers and is interested in delivering multiple-objective water resource projects to the people of California. The California State Coastal Conservancy is partnering with the U.S. Army Corps of Engineers on several ecosystem restoration projects in California, including Hamilton Airfield, South San Francisco Bay Shoreline Study, Napa River Salt Marsh, Matilija Dam, and Upper Newport Bay. The Corps needs to better recognize the contributions of the non-federal sponsor to the development of water resource projects and better address the needs of the local communities and resource agencies as projects are planned.

The Conservancy is concerned that the vague nature of the proposed revisions to the principles and guidelines will result in confusion and additional project delays as planners attempt to determine how to implement the criteria and rank different objectives.

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The revised principles and guidelines should serve to clarify and streamline project planning, allowing for **cost savings and timely project implementation**.

Of major concern to the Conservancy is that the proposed revisions do very little to capture the many benefits projects provide, including benefits to the environment, increased recreation, and quality of life improvements to the local community. As a result of this lack of directive language, the Corps of Engineers will likely continue to place great emphasis on the National Economic Development (NED) cost-effectiveness criteria that it currently employs, which is a significant shortcoming in the current approach. Much more emphasis should be placed on the other four accounts, namely: Public Safety, Environmental Quality, Regional Economic Development, and Other Social Effects. These are the benefits demanded by the community to meet the country's changing needs. They are the needs the communities are willing to pay their share for and must be fully considered in project decision-making.

Projects such as the Napa River Salt Marsh have suffered due to a narrow focus in regards to calculating benefits, and a lack of emphasis in the Corps planning process on the multiple objectives and benefits that a project can provide for the region, state, and nation. The Conservancy fears that similar issues could arise during the South San Francisco Bay Shoreline Study.

Section 2- National Planning Objective

The revision states, "The national objective of water and related land resources planning is to foster environmentally sound, efficient use of the Nation's resources consistent with public safety." True multi-purpose planning should be encouraged and highlighted. Under the current scenario, the many benefits of multi-objective projects are not being given adequate consideration, including public safety, benefits to low-income communities, and environmental benefits. The revision should clearly define and criteria developed to account for multiple benefits to the nation's citizens and environment.

Section 4- Watersheds

The Conservancy supports the requirement that the Corps assess and evaluate the interaction of a project with other water resources projects and programs within a watershed or region. This requirement would have benefited the Napa River Salt Marsh Restoration Project, which is one of several wetland restoration projects in the North Bay. The Conservancy's objective for the project was to provide a variety of habitats, in keeping with regional goals and in coordination with neighboring projects. The Corps's planning process however, would not give weight to the importance of a diversity of habitats, instead dropping out of the project, during the incremental cost analysis, ponds that were needed to meet these watershed goals.

This section should be expanded upon to provide greater clarification and certainty regarding the implementation and rating of these criteria. For example, the revision is generally devoid of any directive language in declaring that watersheds be considered, stating, "Water and related land resources planning should commence from

the watershed level.” Further, the revision does not provide comprehensive guidance on what to include in a watershed analysis, which could lead to different considerations being utilized for projects throughout the nation. Planners need clarity on how to accomplish this directive in a streamlined manner, in order to provide consistency across the nation and avoid repetition of planning processes based on Division or Headquarters review, which drives up planning costs.

Section 7- Plan Formulation

The Conservancy believes that plan formulation should be undertaken in the context of integrated regional water management, and is an active participant in the San Francisco Bay Integrated Regional Water Management Plan. While a reference is made to the national planning objective (which includes this criteria), more detailed reference could help to avoid confusion in implementation.

Furthermore, the section requires that planners take into account the ability to implement a plan in consideration of the availability of federal and non-federal resources. This is a criteria that is not known by project planners at the federal, state, or local level. While planners will likely have an understanding of current and past budget cycles there is no way to forecast the availability of financial resources over the 10 to 20 year time period often necessary to complete a major infrastructure project. This could result in significant delays in the planning process as planners attempt to incorporate this revision. Given the unknown availability of future resources it remains critical that resources are allocated using comprehensive project information, taking into account watershed effects and public safety.

Section 7.1- General Consideration

The section includes language explaining what the Corps considers non-structural plans. The proposed language refers to non-structural plans as the avoidance or minimization of changes to existing hydrologic or geomorphic processes by “changed management” or the “use of existing infrastructure” or by “managing human activity and development”. This description remains overly vague and could result in confusion in implementation. For example, while one could assume that the acquisition, or conservation, of land composing a river’s natural floodplain could be considered “non-structural”, this remains unknown with certainty under the proposed language.

Again the proposed language concerning public safety is vague and is not directive in nature. The language generally encourages the consideration of risks to public safety by ensuring that infrastructure is “reliable” and that risks to human life are avoided, reduced or mitigated. In addition, there are no assessment criteria suggested to incorporate a risk to public safety in comparison to other considerations.

The proposed revision for plan integration does not contain directive language. The current proposed revision leaves the status of other plans unclear, which could add confusion in implementation. The language says that alternative plans, “can add value to alternatives” but does not clarify how that value is added, be it through inclusion or general consideration.

Section 8- Evaluation of Plans

The language in the section lists a number of criteria that a plan should include for evaluation purposes. These include impacts on “current and potential future uses” of water and land throughout the watershed, impacts and effects of climate change, as well as the relationship to other projects and existing plans.

Again, what is noticeably absent from this section is the consideration of effects on public safety, the rating of environmental benefits provided by a project, and the way in which benefits provided to low-income communities will be recognized.

The language included in section 8.2 in reference to public safety is vague and reads: “Public Safety: The safety of populations at risk”. As “safety” is a generally ambiguous term additional clarifying language could be beneficial in ensuring the intent of this provision is captured and applied consistently.

Section 9- Plan Selection

The revision refers to the culmination of the planning process as being the selection of a recommended plan that is “cognizant” of the national planning objective, national mission authorities, and the availability of resources. This language does not provide any justification regarding plan selection or how to rank the competing criteria (NED, EQ, etc).

The selection of a recommended plan is critical to the Federal financial contribution. The Conservancy has witnessed, on the Napa River Salt Marsh Restoration Project, the narrow Federal selection of an inadequate plan, which because of a bias toward NED, and not the other key factors, would form the narrow limits of Federal financial participation. The plan that meets not only the community’s needs but the resource agencies’ needs, as well, is referred to as the “locally preferred plan”. The sponsor pays for costs beyond the NED level, leaving the sponsor to pay for the key facets of a project which are critical to the community and form the basis for resource agency acceptance. This type of choice is unacceptable and must be changed through the full weighting of the other key factors.

This revision could result in confusion among project planners and frustration by project sponsors such as the Conservancy, as no clear metric is put forward in selecting a “recommended plan” and even weighting is not given to other factors. As a result of this lack of clarification and fair consideration of other factors, it remains likely that planners will continue to have an over-reliance on the use of NED criteria in choosing a plan. This could continue the current under-representation of the environmental benefits provided by projects, as well as the benefits provided as a result of increased public safety.

Section 9.1- Selection Criteria

In general, this section does not provide for the consideration of criteria for effects on human life, increased public safety, reduced community risk, or the protection of low-income communities. Language directing planners to consider any of the aforementioned

items is noticeably absent, which could result in these components not being considered during plan selection. The proposed revisions focus greatly on NED returns and cost-benefit ratio, providing an inherent disadvantage to the protection of low-income areas, public safety, and the environmental benefits that would be provided as a result of project completion.

Adding further confusion to this section is the language regarding uncertainty criterion. The language says “where uncertainty to a future trend exists, both the option of no action and an alternative plan based on proceeding in steps using an incremental adaptive management approach should be compared to one another.” This is overly vague and could benefit from further explanatory language. Hydrology is constantly changing and thus planners need to understand what qualifies as a “future trend”; natural, manmade, or both? Furthermore, is there a cut-off for consideration of future trends, and how does a planner determine when a “future trend” is significant and should be considered in the planning process?

9.2 Project Types

Significant language revisions need to occur to make certain that this provision captures the congressional directive to include the risk to public safety, ensure the protection of low-income areas and better capture environmental benefits in the planning process. As it currently stands, these considerations are noticeably absent under the Flood and Storm Damage Reduction section.


Further, the criteria for Aquatic Ecosystem Restoration projects are vague. The proposed language directs the Corps to select a plan that “best reflects an appropriate level to invest for that ecosystem from a national perspective,” although a system or metric to make this determination is not given in the proposed language. National perspective is not defined, which will likely result in continued emphasis being placed on the NED objective, which is unacceptable.

The language states that “plans that address the most critical ecological needs using the minimum action needed to substantially improve the natural functions or services with increasingly higher cost effectiveness should be more heavily weighted in the selection process.” This proposed language is problematic on a number of levels. There is no guidance offered for “the most critical ecological needs,” making it difficult to employ a standard practice to projects across the many different ecological areas throughout the nation.

Further, the language directs planners to give weighted consideration to plans that will improve “natural functions or services with increasingly higher cost-effectiveness”. Again, given varying land values and varying degrees of ecosystem degradation throughout the nation it will be difficult to employ an equitable planning mechanism based on the proposed language, especially with the emphasis, which seems inappropriate in this area. In addition, the proposed language seems to implement NED criteria in an area which was previously granted a blanket exemption from NED for Environmental Quality considerations.

In summary, the proposed principles are an inadequate attempt to revise the existing Principles and Guidelines to reflect the needs and desires of communities, especially with regard to providing equal weighting to the non-NED accounts, specifically, Public Safety, Environmental Quality, Regional Economic Development, and Other Social Effects. A meaningful revision to this approach must be taken, in order to allow the Corps and sponsors to develop approaches to meet community needs.

Sincerely,



Sam Schuchat
Executive Officer